



In the Matter of:

ODIS D. STEWARD, JR.

ARB CASE NO. 96-169

COMPLAINANT,

(ALJ CASE NO. 96-TSC-7)

v.

CITY OF WACO, TEXAS,

DATE: August 15, 1996

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

ORDER OF DISMISSAL

Before me for review is a Recommended Order of Dismissal issued by the Administrative Law Judge (ALJ) in this case, which arises under the employee protection provisions of the Toxic Substances Control Act of 1986 (TSCA), 15 U.S.C. § 2622 (1988). Prior to a hearing, Complainant filed a Motion To Dismiss Without Prejudice and explained that the matter in controversy was consolidated with issues pending in a cause of action filed with the state of Texas. Respondent subsequently advised the ALJ that it had no objection to Complainant's Motion To Dismiss Without Prejudice. Voluntary dismissals of TSCA complaints are governed by Rule 41 of the Federal Rules of Civil Procedure. See *Nolder v. Kaiser Engineers, Inc.* Case No 84-ERA-5, Sec. Dec., June 28, 1985, slip op. at 6-8; *Blevins v. Tennessee Valley Authority*, Case No. 90-ERA-4, Sec. Dec., June 28, 1993, slip op. at 2.

^{1/} On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute and the implementing regulations to the newly created Administrative Review Board (ARB). Secretary's Order 2-96 (Apr. 17, 1996), Fed. Reg. 19978 (May 3, 1996) (copy attached).

Secretary's Order 2-96 contains a comprehensive list of statutes, executive order, and regulations under which the Administrative Review Board now issues final decisions. A copy of the final procedural revisions to the regulations (61 Fed. Reg. 19982) implementing this reorganization is also attached.

Accordingly, the ALJ's recommendation is accepted and this case is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

DAVID A O'BRIEN

Chair

KARL J. SANDSTROM

Member